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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

In the Matter of: ANTHONY J. SARP,

Debtor,

No. 07-35387

BAP No. WW-05-01478-SPaMo

ANTHONY J. SARP; et al.,

Appellants,

v.

DAVID S. MORK,

Appellee.

MEMORANDUM^{*}

Appeal from the Ninth Circuit
Bankruptcy Appellate Panel
Smith, Pappas, and Montali, Bankruptcy Judges, Presiding

Submitted March 18, 2008^{**}

^{*} This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Before: LEAVY, HAWKINS, and TASHIMA, Circuit Judges.

Anthony J. and Barbara A. Sarp and their marital community appeal from the Bankruptcy Appellate Panel's ("BAP") decision affirming the bankruptcy court's grant of summary judgment in favor of the trustee on the basis that the Sarps failed to surrender \$118,229.99 in estate property. We have jurisdiction pursuant to 28 U.S.C. § 158(d). We review de novo the decision of the BAP and the bankruptcy court's conclusions of law and grant of summary judgment. *Sigma Micro Corp. v. Healthcentral.com (In re Healthcentral.com)*, 504 F.3d 775, 783 (9th Cir. 2007). We affirm.

Contrary to appellants' contentions, disputed evidence regarding whether their conduct enhanced the value of estate assets is immaterial to whether they breached their duties under 11 U.S.C. § 521(3) & (4). *See Thrifty Oil Co. v. Bank of America Nat'l Trust & Savings Ass'n*, 322 F.3d 1039, 1046 (9th Cir. 2003) ("A fact is 'material' when, under the governing substantive law, it could affect the outcome of the case."); *see also* 11 U.S.C. § 521(3) (requiring debtor to cooperate with trustee); 11 U.S.C. § 521(4) (requiring debtor to surrender all estate property to trustee).

AFFIRMED.